



These Rental Terms and Conditions (the “T&Cs”) are part of the order (the “Order”) to which it is attached and in which it is referenced and applies to all Equipment (as defined below) identified on the Order leased by Supplier to Company.

1. Order

The Order shall become a binding contract subject to these T&Cs (together, the “Agreement”) when accepted by Supplier’s acknowledgement or commencement of performance. Supplier agrees to rent to Company the vehicles, equipment, and goods (collectively, “Equipment”) set forth in the Order and ancillary thereto to Company. Any conflict or inconsistency between this Agreement and the Order will be resolved in favor of this Agreement unless otherwise expressly set forth in the Order. This Agreement may be changed or supplemented only by written agreement between Company and Supplier.

2. Fees and Payments; Security Deposit

- a. Company agrees to pay Supplier the amounts set forth in the Order (“Fee”) for the Equipment, which Fee may be modified by mutual written agreement of the parties (email is sufficient). All Fees are due and immediately payable upon return of the Equipment. All Fees which Company, pursuant to any provision of this Agreement, assume or agrees to pay, shall be paid as provided herein or the applicable Order, without notice or demand, and without abatement, deduction, counterclaim or setoff. Company agrees to pay all collection costs incurred by Supplier (including reasonable attorney fees) together with interest on all amounts past due at the rate of one percent (1.0%) per month or at the maximum legal rate allowed for by applicable state law, whichever is higher, if Company fails to pay the Fees required hereunder.
- b. As security for the prompt and full payment of Fees, and the faithful and timely performance of all provisions of this Agreement, and any extensions or renewals thereof, Lessee shall pledge and deposit with Lessor the security amount set forth in the section shown as “Security Deposit” on each respective Order (“Security Deposit”). If Company fails to comply with any of its obligations under this Agreement, the Supplier shall have the right, but shall not be obligated, to apply said security to the curing of such default. At the end of the Term or an earlier termination of this Agreement, provided Company has paid all of the Fees herein and has fully performed all other provisions of this Agreement, Supplier will return to Company any then remaining balance of the Security Deposit, without interest. The Security Deposit may be commingled with Supplier’s other funds.

3. Delivery

Delivery of the Equipment shall have occurred when the Equipment is in the care, custody and control of the Company at the location (the “Location”) stated on the Order (or as otherwise agreed in writing) (“Delivery”).

4. Return of Equipment; Term; Default

- a. Rental shall start upon Delivery and end when the Equipment is returned by Company (“Return”) or sooner if terminated earlier in accordance herewith (“Term”). If Company continues to use the Equipment after the expiry of the Term, the Agreement shall continue on a week-by-week basis (or such shorter period upon which the rental was based during the Term), Company shall continue to pay the Fee on a prorated basis (if applicable), and such extension will form part of the Term. Supplier will use commercially reasonable efforts to supply Company with the Equipment requested by Company on the scheduled date. Supplier shall provide a receipt itemizing the Equipment delivered with each Delivery.
- b. If Company fails to pay any portion or installment of the Fees payable under the Agreement or otherwise fails to comply with any obligation under this Agreement, Supplier shall give Company written notice thereof and twenty-four (24) hours to cure such breach and Company’s failure to cure such breach within such period shall constitute a default (“Default”). Upon the occurrence of any such Default, and in addition to all other rights and remedies available at law or in equity which are reserved by Supplier, the Supplier shall have the right, at Supplier’s sole discretion, to terminate this Agreement and cease performance hereunder. Company further agrees that the continuation of Supplier’s performance hereunder after a Default shall not constitute a waiver or operate as any form of estoppel with respect to Supplier’s later assertion of Supplier’s right to cease such performance at any time so long as such Default has not been timely cured. Should Company fail to pay any portion of the fees or charges payable by Company, including but not limited to costs associated with rental, loss, damage, insurance deductibles, theft and loss of use, Company agrees to pay Supplier for any costs associated with the collection of monies owed to Supplier, including, but not by way of limitation, collection fees, reasonable outside attorneys’ fees, court fees and or any fees paid to a licensed collection agency.

5. Damage to Equipment; Loss; Release



- a. Company shall not, under any circumstances, use or operate the Equipment in a reckless, abusive or careless manner, including improper loading or excessive loading or other operation or use which may or does cause damage or extraordinary wear and tear to the Equipment. Additionally, Company agrees not to make any alterations, additions, replacements or improvements to the Equipment that will detract from its economic value or functional utility without Supplier's written consent.
- b. Company is responsible for loss and damage responsibility (including but not limited to loss, damage, or destruction of the Equipment, injury or death of a person, or damage to third party property) arising in each case from Company's use of Equipment during the Term, including, but not limited to, losses while in transit, while loading and unloading, while at any and all locations, while in storage or on Company's or Supplier's premises, and all towing costs and mechanical repairs ("Loss(es)"). Supplier reserves the right to charge for any Loss and Company shall fully compensate Supplier for loss of use of the Equipment during the time it is being repaired or replaced, as applicable. Approval, disapproval, or failure to act by Supplier regarding any insurance supplied by Company shall not relieve the Company of responsibility or liability for Losses. Similarly, neither the bankruptcy or insolvency of Company's insurer nor any denial of liability by Company's insurer shall exonerate Company from liability or responsibility for Losses.

Company shall promptly notify Supplier of the location of the Equipment upon Supplier's request. Company shall also give prompt notice to Supplier in the event of any Loss arising out of Company's use thereof during the Term. If there is a reason to believe a theft has occurred, Company shall file a police report. Loss of use shall be calculated at the rental rate provided for in the applicable Order. Accrued rental charges shall not be applied against the purchase price or cost of repair of the lost, stolen or damaged Equipment. In the event of loss for which Supplier is responsible in accordance with the terms of this Agreement, Supplier's liability will be limited to the rental rate provided for in the applicable Order. IN NO EVENT SHALL SUPPLIER BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY TYPE OR CHARACTER, INCLUDING LOSS OF PROFITS OR REVENUE, OR COSTS OF PURCHASED OR REPLACEMENT EQUIPMENT, RESULTING FROM COMPANY USE, MISUSE, OPERATION OR MAINTENANCE OF THE EQUIPMENT.

6. Equipment in Working Order; Malfunctioning Equipment

- a. Supplier will test the Equipment in accordance with reasonable industry standards prior to Company taking Delivery of the Equipment to ensure that such Equipment is in working order. NOTWITHSTANDING THE FOREGOING, COMPANY AGREES AND ACKNOWLEDGES THAT SUPPLIER IS NOT THE MANUFACTURER OF THE EQUIPMENT AND THEREFORE MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE VALUE, DESIGN, CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT. Notwithstanding the foregoing, Supplier agrees to use reasonable efforts to allow Company, where applicable, to obtain the benefit of any remaining manufacturer warranty that may be available with respect to the Equipment during the Term.
- b. If any of the Equipment becomes inoperable or fails to function in the manner for which it was designed ("Malfunctioning Equipment") during the Term, Company will notify Supplier and Supplier shall have the option, at its discretion, to: **(i)** repair the Malfunctioning Equipment or **(ii)** replace the Malfunctioning Equipment with operable replacement Equipment ("Replacement Equipment") of equal quality and capability as promptly as commercially possible.

If Supplier is unable to provide Replacement Equipment or repair the Malfunctioning Equipment within forty-eight (48) hours of notice from Company, Company shall have the option to: **(a)** accept Replacement Equipment of lesser quality at a reduced rate for the remainder of the Term; **(b)** terminate the rental of the Malfunctioning Equipment only, and receive a reduced rental rate reflecting the removal of the Malfunctioning Equipment; or **(c)** terminate the Agreement in its entirety. Company shall be responsible for pro-rated Fees in the event of reduction of rental rate under **(b)** and early termination under **(c)** of this paragraph.

7. Use of Equipment; Drivers

- a. During the Term, Company shall **(i)** be responsible for expenses in connection with the day-to-day operation of the Equipment including but not limited to fuel, lubricants and other similar charges (unless otherwise agreed by Supplier); **(ii)** not make any alteration to the Equipment, including by attaching the Equipment to any land or building so as to cause the Equipment to become a permanent or immovable fixture on such land or building, unless Company can restore the Equipment to the



same condition as delivered, reasonable wear and tear excepted; **(iii)** not sell or offer for sale, or allow the creation of any mortgage, charge, lien or other security interest in respect of the Equipment; **(iv)** not suffer or permit the Equipment to be confiscated, seized or taken out of its possession or control under any distress, execution or other legal process, but if Equipment is so confiscated, seized or taken, Company shall notify Supplier and such confiscation or seizure shall be considered a Loss unless Company procures an immediate release of the Equipment; **(v)** not sublease the Equipment without the consent of Supplier; **(vi)** comply with all federal and local laws, regulations, and ordinances pertaining to the use of the Equipment; **(viii)** to the extent Supplier notifies Company of any special qualifications for the handling of the Equipment, only permit their handling by properly qualified employees, contractors or agents of Company; and **(xi)** at Company's sole cost and expense, service, maintain and repair the Equipment, and maintain the Equipment in good mechanical condition and running order and, if applicable, perform any necessary and applicable systematic maintenance and periodic safety inspections on the Equipment, as required under Title 13 of the California Code of Regulations Section 1232, Title 49 of the Code of Federal Regulations Section 396.3, or any other applicable law.

Additionally, Company agrees that it will permit Supplier and its authorized agents at any reasonable time(s) to inspect and examine the Equipment. The rent on any of the Equipment will not be prorated or abated while the Equipment is being serviced or repaired for any reason for which Company is liable or responsible in accordance with the terms hereof. Supplier will not be under any liability or obligation in any manner to provide service, maintenance, repairs, or parts for the Equipment, except as otherwise specially agreed by Supplier in writing. All installations, replacements, and substitutions of parts or accessories whether provided by Supplier or any third party with respect to any of the Equipment will become part of the Equipment and will be owned by Supplier.

- b. Company acknowledges that the Equipment and any drivers operating the Equipment (as applicable) are in Company's exclusive possession, control and use during the Term, and Company assumes full responsibility for the operation of the Equipment for the duration of such Term. If applicable, any and all drivers who drive the Equipment rented from Supplier shall be duly licensed, trained and qualified to drive Equipment of this type. Company must supply

and employ any driver who drives the Equipment and that driver shall be deemed to be Company's employee for all purposes and shall be covered as an additional insured on all of Company's applicable insurance policies. Only Company and Company's authorized users (i.e., those that are duly licensed, trained and qualified to operate the Equipment and are covered under Company's applicable insurance policies) may operate the Equipment. Company shall not permit the use or operation of the Equipment by anyone other than those authorized by Company. Further, Company agrees not to operate or permit the operation of the Equipment in any manner which would contravene the uses and purposes stipulated in the insurance policies required herein or in violation of any laws, rules or ordinances and Company shall be solely responsible for any fines, penalties or forfeitures occasioned by any violation thereof while using the Equipment (including, without limitation, parking tickets and other infractions).

8. Company's Insurance

Company shall maintain, at its own cost and expense, at all times during the Term, the following insurance policies:

- a. Workers' Compensation Insurance adequate to comply with all applicable statutory, regulatory and other legal requirements in the territory of use and Employer's Liability in an amount not less than \$1,000,000.
- b. Commercial General Liability Insurance in an amount of \$1,000,000 per occurrence, \$2,000,000 aggregate for Bodily Injury and Property Damage Liability (such coverage shall include protection for premises/operations, contractual liability, products/completed operations and broad form property damage including care, custody and control). The Commercial General Liability Insurance shall name Supplier as an additional insured and provide that said insurance is primary coverage. Such insurance shall remain in effect during the Term of this Agreement.
- c. Automobile Liability Insurance in an amount of \$1,000,000 combined single limit for Bodily Injury and Property Damage to include owned, non-owned and hired vehicles as well as coverage for physical damage to vehicles to include Comprehensive and Collision coverage. Supplier shall be named as an additional insured with respect to the Automobile Liability Insurance coverage, and as a loss payee with respect to the physical damage coverage. The Automobile



Liability Insurance shall provide cash value for physical damage and shall provide that said insurance is primary coverage with respect to all insured, the limits of which must be exhausted before any obligation arises under Supplier's insurance.

- d. All Risk Property Coverage covering the rented Equipment valued at actual cash value covering Equipment against all sources (Equipment Rental Floater or Production Package Policy) including coverage for, without limitation, (i) theft by force, (ii) theft by fraudulent scheme and/or "voluntary parting", (iii) mysterious disappearance, and (iv) loss of use of the Equipment. The All Risk Property Coverage shall be on a worldwide basis, shall name Supplier as an additional insured and as the loss payee with respect to Miscellaneous Rented or Leased Equipment and shall cover all risks of loss of, or damage or destruction to the Equipment. The All Risk Property Coverage shall be sufficient to cover the Equipment at its replacement value and shall be primary coverage over Supplier's insurance.
- e. Insurance Generally. Before taking Delivery and at any time Supplier so requests, the Company shall deliver valid certificates of insurance evidencing the insurance described above and including Supplier as an additional insured and loss payee as its interests may appear, with each such certificate signed by an agent or representative of the insurance carrier. In addition, each above-mentioned policy shall include a provision that should any of the above-mentioned policies be cancelled before the expiration of the Term, notice will be delivered to Supplier in accordance with the policy provisions. This notwithstanding, Company and its insurance company shall provide Supplier with not less than ten (10) days written notice prior to the effective date of any cancellation or material change to any insurance maintained by Company pursuant to the provisions of this Agreement.

All required insurance policies hereunder shall be written by insurance companies licensed to do business in the state in which Company are located or in which the Equipment is registered and with a current Best's rating of not less than A-VII. Company shall hold Supplier harmless from and shall bear the expense of any applicable deductible amounts and self-insured retentions provided for by any of the insurance policies required to be maintained under this Agreement. In the event of loss, Company shall promptly pay amount of the deductible amount or self-insured retention or the applicable portion thereof to Supplier or the insurance carrier, as applicable.

Notwithstanding anything to the contrary contained in this Agreement, the fact that a loss may not be covered by insurance provided by Company under this Agreement or, if covered, is subject to deductibles, retentions, conditions or limitations shall not affect Company's liability to Supplier for any loss. Should Company fail to procure or pay the cost of maintaining in force the insurance specified herein, or to provide Supplier upon request with satisfactory evidence of the insurance, Supplier may, but shall not be obliged to, procure the insurance and Company shall reimburse Supplier on demand for its costs. Lapse or cancellation of the required insurance shall be deemed to be an immediate and automatic default of this Agreement. The grant by Company of a sublease (which must be pre-approved by Supplier in writing in each instance) of the Equipment rented/leased hereunder shall not affect Company's obligation to procure insurance on Supplier's behalf, or otherwise affect Company obligations under this Agreement.

- f. *Subrogation.* Each of the above-stated insurance policies shall include a waiver of subrogation in favor of Supplier, Supplier's parents, subsidiaries, affiliated companies, officers, directors and employees from both Company and Company's assigned drivers. Company hereby further agrees that Supplier shall be subrogated to any recovery rights Company may have for damage to the Equipment.

9. Indemnification

Company agrees that, as part of the consideration of this Agreement, to defend, indemnify and hold Supplier, its subsidiaries, affiliates, officers, agents and employees, harmless from and against any and all claims, actions, causes of action, demands, rights, damages of any kind, costs, loss of profit, expenses and compensation whatsoever including court costs and reasonable outside attorneys' fees ("Claim(s)"), in any way arising directly or indirectly from, or in connection with, the Equipment while in Company's care, custody and control, including, without limitation, as a result of Company's use, maintenance, or possession, including actions or claims for negligence or strict liability in tort, irrespective of the cause of the Claim, but excluding any Claim arising solely out of Supplier's gross negligence or willful misconduct.

10. Compliance With Law and Regulations

Company agrees to comply with the laws of all states in which the Equipment is transported and/or used as well as all federal and local laws, regulations, and ordinances pertaining to the



transportation and/or use of such Equipment. Without limiting the generality of the foregoing and by way of example, Company shall at all times (i) display all necessary and proper placards; (ii) obtain all necessary permits; and (iii) keep all required logs and records. Company shall indemnify and hold Supplier, Supplier's subsidiaries, affiliates, officers, agents and employees, harmless from and against any and all fines, levies, penalties, taxes and seizures by any governmental authority in connection with or as a result of Company's possession and/or use of the Equipment including, without limitation, the full replacement value of the Equipment in the event of seizure or impound, including Supplier's reasonable costs and attorney's fees.

11. Bailment

This Agreement constitutes an Agreement or bailment of the Equipment and is not a sale or the creation of a security interest. Company will not have, or at any time acquire, any right, title, or interest in the Equipment, except the right to possession and use as provided for in this Agreement. As between Company and Supplier, the Supplier will at all times be the sole owner (or agent of the sole owner) of the Equipment.

12. Miscellaneous.

- a. *Entire Agreement; Amendment.* This Agreement expresses the parties' full and complete understanding regarding the subject matter herein and supersedes all prior or contemporaneous proposals, agreements, representations, and understandings, whether written or oral, with respect to the subject matter. This Agreement may not be amended or modified except in writing signed by both parties.
- b. *Interpretation; Headings.* This Agreement shall be construed as to its fair meaning and not strictly for or against either party. The headings are only descriptive and not to be construed in interpreting the provisions hereof.
- c. *Severability.* If any provision in this Agreement is determined to be in violation of any law, rule or regulation or otherwise unenforceable, such determination shall not affect the validity of any other provision of this Agreement, but such other provisions shall remain in full force and effect. Each provision and paragraph of this Agreement is severable from every other provision and paragraph and constitutes a separate and distinct covenant.
- d. *Assignment; Successors and Assigns.* Supplier may assign the Agreement, in whole or in part, or

any of its rights and obligations hereunder to a third party. The Agreement shall inure to the benefit of Supplier, its licensees, successors. Company may not assign an Agreement, nor any rights, licenses, or obligations thereunder without the prior written approval of Supplier.

- e. *No Construction Against Drafter.* The parties acknowledge that this Agreement has been prepared, negotiated, and fully reviewed by the parties and their attorneys. As such, the parties agree that any rule that an agreement, in whole or in part, shall be interpreted or construed against the agreement's drafter will not apply.
- f. *Survival.* All rights, duties and responsibilities of either party that either expressly or by their nature extend into the future, including Company's indemnification obligations, survive end of the Term of this Agreement or the termination of this Agreement.
- g. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California. This Agreement is binding upon the parties in the United States and worldwide. The parties hereby irrevocably consent to the exclusive jurisdiction of the state courts located in Los Angeles, California, and the federal courts of the Central District of California, as appropriate, in any action arising out of or relating to this Agreement and waive any other venue to which either party might be entitled by domicile or otherwise.
- h. *Waiver.* The Parties agree that no failure or delay by either in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege under this Agreement.
- i. *Counterparts.* This letter Agreement may be executed in one or more counterparts (including by facsimile or other electronic transmission), each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.